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ORDINANCES

OF THE

CONVENTION,

ASSEMBLED AT WHEELING,

ON THE

11th OF JUNE, 1861.

PRINTED BY AUTHORITY OF THE CONVENTION.

WHEELING, VA.:

1861.

A DECLARATION

OF THE

PEOPLE OF VIRGINIA,

REPRESENTED IN CONVENTION, AT THE CITY OF WHEELING, THURSDAY, JUNE 13, 1861.

The true purpose of all government is to promote the welfare and provide for the protection and security of the governed, and when any form or organization of government proves inadequate for, or subversive of this purpose, it is the right, it is the duty of the latter to abolish it. The Bill of Rights of Virginia, framed in 1776, re-affirmed in 1830, and again in 1851, expressly reserves this right to a majority of her people. The act of the General Assembly, calling the Convention which assembled at Richmond in February last, without the previously expressed consent of such majority, was therefore a usurpation; and the Convention thus called has not only abused the powers nominally entrusted to it, but, with the connivance and active aid of the executive, has usurped and exercised other powers, to the manifest injury of the people, which, if permitted, will inevitably subject them to a military despotism.

The Convention, by its pretended ordinances, has required the people of Virginia to separate from and wage war against the government of the United States, and against citizens of neighboring States, with whom they have heretofore maintained friendly, social and business relations:

It has attempted to subvert the Union founded by Washington and his co-patriots, in the purer days of the republic, which has conferred unexampled prosperity upon every class of citizens, and upon every section of the country:

It has attempted to transfer the allegiance of the people to an illegal confederacy of rebellious States, and required their submission to its pretended edicts and decrees:

It has attempted to place the whole military force and military operations of the Commonwealth under the control and direction of such confederacy, for offensive as well as defensive purposes:

It has, in conjunction with the State executive, instituted wherever their usurped power extends, a reign of terror intended to suppress the free expression of the will of the people, making elections a mockery and a fraud:

The same combination, even before the passage of the pretended ordinance of secession, instituted war by the seizure and appropriation of the property of the Federal Government, and by organizing and mobilizing armies, with the avowed purpose of capturing or destroying the Capital of the Union:

They have attempted to bring the allegiance of the people of the United States into direct conflict with their subordinate allegiance to the State, thereby making obedience to their pretended ordinances, treason against the former.

We, therefore, the delegates here assembled in Convention to devise such measures and take such action as the safety and welfare of the loyal citizens of Virginia may demand, having maturely considered the premises, and viewing with great concern the deplorable condition to which this once happy Commonwealth must be reduced unless some regular adequate remedy is speedily adopted, and appealing to the Supreme Ruler of the Universe for the rectitude of our intentions, do hereby, in the name and on the behalf of the good people of Virginia, solemnly declare that the preservation of their dearest rights and liberties and their security in person and property, imperatively demand the reorganization of the government of the Commonwealth, and that all acts of said Convention and Executive, tending to separate this Commonwealth from the United States, or to levy and carry on war against them, are without authority and void; and that the offices of all who adhere to the said Convention and Executive, whether legislative, executive or judicial, are vacated.

An ORDINANCE for the Reorganization of the State Government.

Passed June 19, 1861.

The People of the State of Virginia, by their Delegates assembled in Convention at Wheeling, do ordain as follows:

1. A governor lieutenant governor and attorney general for the state of Virginia, shall be appointed by this convention, to discharge the duties and exercise the powers which pertain to their respective offices by the existing laws of the state, and to continue in office for six months, or until their successors be elected and qualified; and the general assembly is required to provide by law for an election of governor and lieutenant-governor by the people as soon as in their judgment such election can be properly held.

2. A council, to consist of five members, shall be appointed by this convention, to consult with and advise the governor respecting such matters pertaining to his official duties as he shall submit for consideration, and to aid in the execution of his official orders. Their term of office shall expire at the same time as that of the governor.

3. The delegates elected to the general assembly on the twenty-third day of May last, and the senators entitled under existing laws to seats in the next general assembly, together with such delegates and senators as may be duly elected under the ordinances of this convention, or existing laws, to fill vacancies, who shall qualify themselves by taking the oath or affirmation hereinafter set forth, shall constitute the legislature of the state, to discharge the duties and exercise the powers pertaining to the general assembly. They shall hold their offices from the passage of this ordinance until the end of the terms for which they were respectively elected. They shall assemble in the city of Wheeling on the first day of July next, and proceed to organize themselves as prescribed by existing laws, in their respective branches. A majority

in each branch of the members qualified as aforesaid, shall constitute a quorum to do business. A majority of the members of each branch thus qualified, voting affirmatively, shall be competent to pass any act specified in the twenty-seventh section of the fourth article of the constitution of the state.

4. The governor, lieutenant-governor, attorney general, members of the legislature, and all officers now in the service of the state, or of any county, city or town thereof, or hereafter to be elected or appointed for such service, including the judges and clerks of the several courts, sheriffs, commissioners of the revenue, justices of the peace, officers of the city and municipal corporations, and officers of militia, and officers and privates of volunteer companies of the state, not mustered into the service of the United States, shall each take the following oath or affirmation before proceeding in the discharge of their several duties:

"I solemnly swear (or affirm,) that I will support the constitution of the United States, and the laws made in pursuance thereof, as the supreme law of the land, anything in the constitution and laws of the state of Virginia, or in the ordinances of the convention which assembled at Richmond on the thirteenth of February, eighteen hundred and sixty-one, to the contrary notwithstanding; and that I will uphold and defend the government of Virginia as vindicated and restored by the convention which assembled at Wheeling on the eleventh day of June, eighteen hundred and sixty-one."

5. If any elective officer, who is required by the preceding section to take such oath or affirmation, fail or refuse so to do, it shall be the duty of the governor, upon satisfactory evidence of the fact, to issue his writ declaring the office to be vacant, and providing for a special election to fill such vacancy at some convenient and early day to be designated in said writ; of which due publication shall be made for the information of the persons entitled to vote at such election; and such writ may be directed, at the discretion of the governor, to the sheriff or sheriffs of the proper county or counties, or to a special commissioner or commissioners to be named by the governor for the purpose. If the officer who fails or refuses to take such oath or affirmation be appointed by the governor, he shall fill the vacancy without writ, but if such officer be appointed otherwise than by the governor or by election, the writ shall be issued by the governor, directed to the appointing power, requiring it to fill the vacancy.

ARTHUR I. BOREMAN, *President.*

G. L. CRANMER, *Secretary.*

An ORDINANCE to authorize the apprehending of suspicious persons in time of war.

Passed June 19, 1861.

The People of Virginia, by their Delegates assembled in Convention at Wheeling, do ordain that the Sixth and Seventh Sections of the Seventeenth Chapter of the Code of Virginia, be amended and re-enacted as follows:

1. The Governor may cause to be apprehended and secured, or may compel to depart from this state, all suspicious subjects or citizens of any foreign state or power at war with the United States.

2. And whereas, the convention at Richmond have declared the union between the state of Virginia and the other states, under the constitution of the United States, to be dissolved, and have attempted to transfer the allegiance of the people of this state to an illegal confederacy of rebellious states called the confederate states of America; claiming that the state of Virginia and the said confederate states are rightfully, and in fact foreign states or powers in reference to the United States: Now, therefore, all persons in this commonwealth adhering to and supporting the said convention at Richmond, or the said confederate states, or professing to owe allegiance or obedience to the same, shall be deemed, (for the purposes of this ordinance only,) subjects or citizens of a foreign state or power at war with the United States.

3. The governor may send for the person and papers of any such person within this state, in order to obtain information to enable him to act in such cases.

4. Any warrant or order of the governor under this ordinance may be directed to any sheriff or other officer, civil or military, and shall be executed according to the terms thereof by such officer, who shall have all the powers necessary for the purpose, either in or out of his county or corporation.

5. If the governor shall have just cause to believe that any persons in this state claiming to be subjects or citizens of the said confederate states, or adhering to and supporting the said convention or the said confederate states, or professing to owe allegiance or obedience to the same, are about to assemble together, or have assembled themselves together, for the purpose of drilling or receiving military instruction, or to organize themselves as a military force, or to attempt any military operation, or do any act which may endanger the safety or welfare of the good people of this commonwealth or any portion of the same, he may cause such assemblage to be prevented or dispersed, and the persons who may be about to assemble or who have assembled as aforesaid, to be apprehended and secured, or may compel them to depart from this state; and for this purpose he may issue his warrant or order directed to any sheriff or other officer, civil or military, which warrant or order shall be executed as aforesaid. And any assemblage of two or more persons for any purpose inimical to the government of the United States, or of this state as reorganized by this convention, shall be deemed an unlawful assembly, and the persons so offending may be proceeded against and punished as provided in chapter one hundred and ninety-five of the code of Virginia.

6. If any sheriff or other person shall transmit or pay any money, or any check, draft, bill, order, note or certificate for the payment of money, to any officer or other person at Richmond or elsewhere, for the use of the said confederate states, or of the illegal state government at Richmond, now waging war against the United States, or shall furnish any money, arms, military equipments or munitions of war, or aid or other support to the said confederate states, or state government, or to any military force under the control or direction of the same, or to any person or persons about to join any such military force, the governor may cause to be apprehended and secured, or may cause to depart from this state, the sheriff or other person guilty of such offense, and for this purpose may issue his warrant or order and cause the same to be executed as hereinbefore provided.

7. The powers vested in the governor by this ordinance shall be exercised only upon satisfactory evidence and with the concurrence of a majority of his council.

8. This ordinance shall take effect from its passage, and may be altered or repealed by the general assembly.

ARTHUR I. BOREMAN, *President.*

G. L. CRANMER, *Secretary.*

An ORDINANCE relating to the Receipts and Disbursements of the Public Revenue, and providing for the appointment of an Auditor, Treasurer, and Secretary of the Commonwealth.

Passed June 21, 1861.

The People of Virginia, by their Delegates assembled in Convention in Wheeling, do ordain as follows:

1. The general assembly, as soon as it shall be organized at Wheeling, pursuant to the ordinances of this convention, shall elect by joint vote of the two houses, an auditor of public accounts, a treasurer, and a secretary of the commonwealth, whose terms of office shall respectively commence as soon as they shall be duly qualified, and shall continue for the unexpired portion of the current term of said offices, and until their successors be respectively elected and qualified.

2. The officers so to be elected shall discharge the duties and exercise the powers pertaining to their several offices by existing laws, so far as such laws may be consistent with the ordinances of this convention.

3. Each of said officers shall give bond with security, to the satisfaction of the governor; which bond shall be payable to the commonwealth of Virginia, and be conditioned for the faithful performance of the duties of the office. The penalties of the bonds shall be respectively as follows: that of the auditor of public accounts, twenty thousand dollars; that of the treasurer, fifty thousand dollars; and that of the secretary of the commonwealth, five thousand dollars. Each of the bonds shall be submitted to the governor for approval, and if he be of opinion that it is in proper form and duly executed, and that the security is sufficient, he shall endorse his approval thereon, and cause the same to be deposited in some secure place for safe keeping.

4. The auditor of public accounts and the treasurer, shall each keep an office in the city of Wheeling for the transaction of their official business, and the hours for transacting business at said offices shall be from eight in the morning until three in the afternoon between the first day of April and the first day of November, and from nine in the morning until three in the afternoon during the remainder of the year.

5. It shall be the duty of the several sheriffs, and all other persons who have in their hands or are liable for any monies which by existing laws are payable to the treasury of the state of Virginia, forthwith to adjust their several accounts with the auditor to be elected as aforesaid, and pay over to the treasurer herein provided for, the amounts which shall respectively be found due to the state.

6. If any sheriff or other person, having in his hands or being liable for any monies which by existing laws are payable to the treasury, fail or refuse to adjust his account, or to pay over such monies as herein required, the auditor of public accounts shall immediately publish a notice of such default in some newspaper in the city of Wheeling; and if such sheriff or other person shall not within thirty days after such publication, have duly adjusted his account and paid over such monies, he shall forfeit and pay to the commonwealth the sum of five hundred dollars, to be levied by distress under warrant of the governor, which warrant it shall be the duty of the governor to issue on satisfactory evidence that such default has occurred, directing the same at his discretion to the sheriff of any county, or to a special commissioner or commissioners for the purpose; and the sheriff or other person making default as aforesaid, and his or their securities shall further be liable to judgment in the name of the commonwealth of Virginia, for the amount appearing to be due, with interest thereon from the time of such default till payment, and fifteen per centum upon the principal, as damages, to be recovered by motion on ten days' notice in any court of record in the state.

7. The several commissioners of the revenue and sheriffs, having first taken the oath or affirmation required by the ordinances of this convention, and being otherwise duly qualified, shall proceed with all convenient dispatch, to the discharge of their several duties in relation to the assessment and collection of the public revenue under the existing laws, so far as the same may not be inconsistent with the ordinances of this convention.

8. All monies to be paid into the public treasury shall be paid into the Merchants' and Mechanics' Bank of Wheeling, at the city of Wheeling, or one of its branches at Point Pleasant, Clarksburg and Morgantown, or into the North Western Bank of Virginia, at Wheeling, or one of its branches at Parkersburg or Wellsburg: or if east of the Blue Ridge, into the Bank of the Old Dominion, in Alexandria, all monies of the state collected in the counties east of the Blue Ridge of mountains, to the credit of *The Treasury of Virginia;* and the person so paying the same shall take from the proper officer of such bank or branch a certificate of the fact. The treasurer, on the delivery of such certificate, shall retain and file the same, charging the amount therein specified to the proper bank or branch, and delivering to the person who made the payment at bank, duplicate receipts for the amount so paid, specifying on what account the money was paid. The person making the payment shall forthwith hand over one of the said receipts to the auditor of public accounts, to be retained and filed by him and charged to the treasurer's account; and upon the other receipt, which is to be retained by the person making the payment, the auditor shall endorse as follows: *A duplicate hereof has been filed in the auditor's office*, and affix his signature and the proper date to such endorsement.

9. No receipt of the treasurer shall be an acquittance or discharge to any person for any sum of money due to the commonwealth, unless such receipt be endorsed by the auditor of public accounts as aforesaid. And any person bound to pay money into the public treasury, who shall pay the same otherwise than according to this ordinance, shall remain liable for such money, and be subject to every fine, penalty or forfeiture to which he would have been subject if he had not paid the same.

Repealed. See Act 1863, Ch. 11. Amended See Act 1862 Ch. 6.

10. If the governor, at any time when this convention and the general assembly reorganized under the ordinances thereof, shall not be in session, shall be of opinion that the safety of the public funds requires that no more public monies should be paid into any one or more of the depositories specified in the eighth section, or that the monies which may be in the same to the credit of the treasury should be withdrawn, he may announce the fact by proclamation, to be published in some newspaper in the city of Wheeling, and in the city of Alexandria; and in the proclamation he may, if it be necessary, designate another depository or depositories at which monies due the commonwealth may thereafter be paid. And after such proclamation published it shall not be lawful to pay any sum of money on state account into any depository or depositories to which such payment shall be thereby forbidden: and the auditor of public accounts and the treasurer, if required by the governor, shall cause the monies held by such depository or depositories to be transferred to some other lawful depository or depositories of the public funds. But all such proclamations and orders of the governor shall, as soon as possible, be submitted to this convention or to the general assembly, for their revision.

Repealed, Sec. Act, 1863

11. Any person claiming to receive money from the public treasury shall apply to the auditor of public accounts for a warrant for the same. And the auditor, if he find such money to be due by the state, and that the payment thereof has been authorized by any ordinance of this convention, or act of the general assembly as reorganized under the ordinances of this convention, shall issue his warrant therefor upon the treasurer, specifying on what account the money is to be paid, and to what appropriation the same is chargeable. And the treasurer, on the presentation of said warrant to him, shall, if satisfied that said warrant has been authorized as aforesaid, endorse upon said warrant his check, directed to some one of the depositories in which there shall be money to the credit of the treasury, which check shall be payable to the order of the person entitled to receive the amount therein specified. The treasurer shall, however, at no time draw a check on any bank, branch, or other depository, unless there be money enough therein, to the credit of the treasury, to pay such check. And no bank, branch or other depository, holding money to the credit of the treasury, shall pay any check drawn by the treasurer unless the same be endorsed upon a warrant, authorizing the same, issued by the auditor of public accounts.

12. This ordinance shall take effect from its passage. It may be altered or repealed by the general assembly.

ARTHUR I. BOREMAN, *President.*

G. L. CRANMER, *Secretary.*

An ORDINANCE fixing the compensation of certain officers therein mentioned.

Passed June 21, 1861.

The People of Virginia, by their Delegates assembled in Convention at Wheeling, do ordain that the compensation of the several officers herein mentioned shall be as follows:

Of the governor, at the rate of three thousand dollars per annum;

Of the attorney general, at the rate of one thousand dollars per annum;

Of the secretary of the commonwealth, at the rate of fifteen hundred dollars per annum;

Of the auditor of public accounts, at the rate of two thousand dollars per annum;

Of the treasurer, at the rate of fifteen hundred dollars per annum;

Of the president of the senate, the speaker of the house of delegates, and the president of this convention, eight dollars to each for every day's attendance;

Of the other members of the senate, house of delegates, and of this convention, four dollars to each one for every day's attendance; but no person shall receive compensation for the same day both as a member of this convention and of the legislature;

Of the secretary of this convention, eight dollars for each day's attendance, out of which he is to pay his assistant;

Of the sergeant-at-arms attending this convention, and sergeant-at-arms for the Legislature, four dollars for each day's attendance; and two dollars per day for each door keeper and police officer employed; and one dollar per day for each of the pages.

2. The secretary of the commonwealth, auditor of public accounts and treasurer, shall once at least in every quarter submit to the governor their several accounts for office expenses, including printing, stationery, blank books, fuel and other things necessary for the transaction of their official business, which accounts when approved by the governor, and such approval certified in writing, shall be allowed and paid. All expenses incurred by the governor and council in the transaction of official business shall be submitted to the auditor of public accounts in the same manner as other claims against the state.

3. The members of the senate and house of delegates shall be allowed mileage at the rate of ten cents for every mile of necessary travel to be computed by the nearest and most direct route from their several residences to the city of Wheeling.

4. This ordinance shall take effect from its passage, and may be altered or repealed by the general assembly.

ARTHUR I. BOREMAN, *President.*

G. L. CRANMER, *Secretary.*

An ORDINANCE recognizing the constitutional duty of the Commonwealth of Virginia to call forth the militia of the State in obedience to the lawful requisition of the government of the United States, "to execute the laws of the Union, suppress insurrections and repel invasions."

Passed June 25, 1861.

Whereas, by the Proclamation of the President of the United States, three regiments of volunteer militia, consisting of infantry or riflemen, have been called into the service of the United States, to aid in the execution of the laws of the Union, and other and additional regiments may in like manner be hereafter lawfully called into the service of the United States for the like purpose;

Now, therefore, the People of Virginia, by their Delegates assembled in Convention at Wheeling, do ordain as follows:

1. That the governor of this commonwealth grant commissions in the usual and prescribed form, to the officers of the several regiments which may have been heretofore, or may hereafter be mustered into the service of the United States; such officers to take rank in their several grades as of the dates of their several elections; the said regiments to be numbered in the order of their organization, and styled "Virginia Volunteer Militia in the service of the United States." Full returns of said regiments shall, as soon as practicable be made to the adjutant general, who shall make due record thereof, and of all commissions issued under this ordinance. Such regiments shall be organized in the mode prescribed by the act of congress of the United States for such case made and provided, and the officers thereof shall be appointed in the mode provided by the existing laws of this commonwealth.

2. This ordinance shall take effect from and after the day of its passage, and may be repealed or amended by the general assembly.

ARTHUR I. BOREMAN, *President.*

G. L. CRANMER, *Secretary.*

An ORDINANCE relating to the Collection of the Revenue.

Passed June 25, 1861.

The People of Virginia, by their Delegates assembled in Convention at Wheeling, do ordain as follows:

1. That on all taxes hereafter collected there shall be allowed to the person from whom they are collected, by the officer collecting the same, ten per centum on the amount thereof if such payment be made on or before the fifteenth day of September next; if made after the fifteenth day of September and prior to the fifteenth day of October next, six per centum on the amount paid; and if made after the said fifteenth day of October and prior to the tenth day of November next, three per centum shall be allowed on the amount paid.

2. It shall be the duty of the auditor of the public accounts to credit the accounts of the several sheriffs with the per centage allowed to be deducted from said taxes under the terms of the preceding section: provided, the said sheriffs shall account for and pay over the said taxes collected, within ten days after each respective period stated in said section.

3. This ordinance shall take effect from and after the day of its passage, and may be repealed or amended by the general assembly.

ARTHUR I. BOREMAN, *President.*

G. L. CRANMER, *Secretary.*

An ORDINANCE requiring the evidence of the taking certain oaths to be filed in the office of the Secretary of the Commonwealth.

Passed June 25, 1861.

The People of Virginia, by their Delegates assembled in Convention at Wheeling, do ordain as follows:

1. When a person heretofore elected or appointed, or who shall be hereafter elected or appointed, to any office in this state, shall take the oaths required of him in a court of record, he shall procure a transcript from the record of the court, stating the fact of his having taken such oaths; and when he takes such oaths before a judge, notary or justice, he shall procure a certificate of the person administering the same, stating the fact.

2. When the oath prescribed in the ordinance for the reorganization of the state government shall be taken as aforesaid, the person taking the same shall cause the said transcript or certificate to be delivered to the secretary of the commonwealth, who shall file and preserve the same in his office. And if such transcript or certificate be delivered as aforesaid to the secretary of the commonwealth, it shall not be required of the person taking the oath to deliver the transcript or certificate as prescribed by the sixth section of the thirteenth chapter, or by the nineteenth section of the twenty-fourth chapter of the second edition of the code of Virginia.

3. This ordinance shall take effect from its passage, and may be altered or repealed by the general assembly.

ARTHUR I. BOREMAN, *President.*

G. L. CRANMER, *Secretary.*

An ORDINANCE providing that the copies of the Ordinances printed under the authority of this Convention, shall be received as evidence.

Passed June 25, 1861.

Be it ordained by the People of Virginia, in Convention assembled at Wheeling:

1. That the secretary of the convention cause one thousand copies of the ordinances of this convention to be printed in a uniform style with the journal, and that the printed copies of said ordinances, thus published under the authority of this convention, shall be received as evidence in the courts of this state, for any purpose for which the original ordinance could be received, and with as much effect. That the governor direct the distribution of said ordinances, thus published, in such manner as shall best subserve the public interests.

2. This ordinance shall take effect from and after its passage.

ARTHUR I. BOREMAN, *President.*

G. L. CRANMER, *Secretary.*

An ORDINANCE providing for the discharge of the duties of the Board of Public Works.

Passed August 9, 1861.

The People of Virginia, by their Delegates assembled in Convention at Wheeling, do ordain as follows:

1. Until the general assembly shall direct an election of members of the board of public works, and the same shall be duly elected and qualified, the governor, auditor and treasurer of the commonwealth shall constitute the said board, and shall exercise the authority and discharge the duties thereof. The secretary of the commonwealth shall discharge the duties of the clerk of the said board.

2. This ordinance shall take effect from its passage.

A. I. Boreman, *President.*

G. L. Cranmer, *Secretary.*

An ORDINANCE providing for the discharge of the duties of the office of Second Auditor.

Passed August 9, 1861.

The People of Virginia, by their Delegates assembled in Convention at Wheeling, do ordain as follows:

1. The duties of the office of Second Auditor, as prescribed by the laws now in force, shall, until the vacancy now existing in the said office is filled by the general assembly, be discharged by the auditor of public accounts, without additional compensation.

2. This ordinance shall take effect from its passage, and may be altered or repealed by the general assembly.

A. I. Boreman, *President.*

G. L. Cranmer, *Secretary.*

An ORDINANCE declaring null and void the proceedings of the Richmond Convention of 1861.

Passed August 9, 1861.

The People of Virginia, by their Delegates assembled in Convention at Wheeling, do ordain as follows:

1. All ordinances, acts, orders, resolutions and other proceedings of the convention which assembled at Richmond on the thirteenth day of February last, being without the authority of the people of Virginia constitutionally given, and in derogation of their rights, are hereby declared illegal, inoperative, null, void, and without force or effect.

A. I. Boreman, *President.*

G. L. Cranmer, *Secretary.*

An ORDINANCE in relation to the collection of the Public Revenue.

Passed August 12, 1861.

The People of Virginia, by their Delegates assembled in Convention at Wheeling, do ordain as follows:

1. There shall be allowed to every sheriff and collector, for collecting the revenue levied in the year eighteen hundred and sixty-one, in addition to that now allowed by law, a commission of two and one-half per centum on the amount of taxes with which he is chargeable; and if the sheriff or collector of any county or corporation, where the amount of taxes with which he is chargeable does not exceed the sum of ten thousand dollars, shall pay the same or any part thereof into the treasury within the time now required by law, he shall be allowed a further additional commission of two and one-half per centum on the amount so paid.

2. This ordinance shall be in force from its passage, and may be altered or repealed by the general assembly.

A. I. Boreman, *President.*

G. L. Cranmer, *Secretary.*

An ORDINANCE to provide for holding a special term of the County Court of Jackson County.

Passed August 19, 1861.

The People of Virginia, by their Delegates assembled at Wheeling, do ordain as follows:

1. A special term of the county court of Jackson county shall be held, commencing on the fourth Monday of August, eighteen hundred and sixty-one, and continuing until the business brought before it is disposed of, for the purpose of reorganizing the said court, if necessary, for reclaiming and providing for the keeping and safety of the records, books and papers of the said county, and for transacting such other business as may properly come before it.

2. This ordinance shall be in force from its passage.

A. I. Boreman, *President.*

G. L. Cranmer, *Secretary.*

An ORDINANCE to provide for the formation of a new State out of a portion of the territory of this State.

Passed August 20, 1861.

Whereas, it is represented to be the desire of the people inhabiting the counties hereinafter mentioned, to be separated from this commonwealth, and to be erected into a separate state, and admitted into the union of states, and become a member of the government of the United States:

1. The people of Virginia, by their delegates assembled in convention at Wheeling, do ordain that a new state, to be called the state of Kanawha, be formed and erected out of the territory included within the following described

boundary; beginning on the Tug Fork of Sandy River, on the Kentucky line where the counties of Buchanan and Logan join the same; and running thence with the dividing lines of said counties and the dividing line of the counties of Wyoming and McDowell to the Mercer county line, and with the dividing line of the counties of Mercer and Wyoming to the Raleigh county line; thence with the dividing line of the counties of Raleigh and Mercer, Monroe and Raleigh, Greenbrier and Raleigh, Fayette and Greenbrier, Nicholas and Greenbrier, Webster, Greenbrier and Pocahontas, Randolph and Pocahontas, Randolph and Pendleton, to the south-west corner of Hardy county; thence with the dividing line of the counties of Hardy and Tucker, to the Fairfax Stone; thence with the line dividing the states of Maryland and Virginia, to the Pennsylvania line; thence with the line dividing the states of Pennsylvania and Virginia, to the Ohio river; thence down said river, and including the same, to the dividing line between Virginia and Kentucky, and with the said line to the beginning; including within the boundaries of the proposed new state the counties of Logan, Wyoming, Raleigh, Fayette, Nicholas, Webster, Randolph, Tucker, Preston, Monongalia, Marion, Taylor, Barbour, Upshur, Harrison, Lewis, Braxton, Clay, Kanawha, Boone, Wayne, Cabell, Putnam, Mason, Jackson, Roane, Calhoun, Wirt, Gilmer, Ritchie, Wood, Pleasants, Tyler, Doddridge, Wetzel, Marshall, Ohio, Brooke and Hancock.

2. All persons qualified to vote within the boundaries aforesaid, and who shall present themselves at the several places of voting within their respective counties, on the fourth Thursday in October next, shall be allowed to vote on the question of the formation of a new state, as hereinbefore proposed; and it shall be the duty of the commissioners conducting the election at the said several places of voting, at the same time, to cause polls to be taken for the election of delegates to a convention to form a constitution for the government of the proposed state.

3. The convention hereinbefore provided for may change the boundaries described in the first section of this ordinance, so as to include within the proposed state the counties of Greenbrier and Pocahontas, or either of them, and also the counties of Hampshire, Hardy, Morgan, Berkeley and Jefferson, or either of them, and also such other counties as lie contiguous to the said boundaries, or to the counties named in this section; if the said counties to be added, or either of them, by a majority of the votes given, shall declare their wish to form part of the proposed state, and shall elect delegates to the said convention, at elections to be held at the time and in the manner herein provided for.

4. Poll books shall be prepared under the direction of the governor for each place of voting in the several counties hereinbefore mentioned, with two separate columns, one to be headed "For the New State," the other "Against the New State." And it shall be the duty of the commissioners who superintended, and the officers who conducted the election in May last, or such other persons as the governor may appoint, to attend at their respective places of holding elections, and superintend and conduct the election herein provided for. And if the said commissioners and officers shall fail to attend at any such place of holding elections, it shall be lawful for any two freeholders present to act as commissioners in superintending the said election, and to

appoint officers to conduct the same. It shall be the duty of the persons superintending and conducting said election, to employ clerks to record the votes, and to endorse on the respective poll books the expenses of the same.

If on the day herein provided for holding said election, there shall be in any of the said counties any military force, or any hostile assemblage of persons, so as to interfere with a full and free expression of the will of the voters, they may assemble at any other place within their county, and hold an election as herein provided for. It shall be the duty of the commissioners superintending, and officers conducting said election, and the clerks employed to record the votes, each before entering upon the duties of his office, to take, in addition to the oath now required by the general election law, the oath of office prescribed by this convention. It shall be the duty of the officers and commissioners aforesaid, as soon as may be, and not exceeding three days after said election, to aggregate each of the columns of said poll books, and ascertain the number of votes recorded in each, and make a return thereof to the secretary of the commonwealth, in the city of Wheeling, which return shall be in the following form, or to the following effect:

We,.....commissioners, and..... conducting officer, do certify, that we caused an election to be held at..... ....., in the county of....., at which we permitted all persons to vote that were entitled to do so under existing laws, and that offered to vote, and that we have carefully added up each column of our poll books, and find the following result:

For a new state,.....votes; Against a new state,.....votes.

Given under our hands, this .....day.....1861.

Under which certificate there shall be added the following affidavit:

.....County, to-wit:

I,.....a justice of the peace, (or any officer now authorized by law to administer oaths,) in and for said county, do certify that the above named commissioners and conducting officer severally made oath before me, that the certificate by them above signed is true.

Given under my hand, this.....day of.....1861.

The original poll books shall be carefully kept by the conducting officers for ninety days after the day of the election, and upon the demand of the executive shall be delivered to such person as he may authorize to demand and receive them.

5. The commissioners conducting the said election in each of said counties shall ascertain, at the same time they ascertain the vote upon the formation of a new state, who has been elected from their county to the convention, hereinbefore provided for, and shall certify to the secretary of the commonwealth the name or names of the person or persons elected to the said convention.

6. It shall be the duty of the governor, on or before the fifteenth day of November next, to ascertain and by proclamation make known the result of the said vote; and if a majority of the votes given within the boundaries mentioned in the first section of this ordinance, shall be in favor of the formation of a new state, he shall so state in his said proclamation, and shall call upon said delegates to meet in the city of Wheeling, on the 26th day of November next, and organize themselves into a convention; and the said con-

vention shall submit, for ratification or rejection, the constitution that may be agreed upon by it, to the qualified voters within the proposed state, to be voted upon by the said voters on the fourth Thursday in December next.

7. The county of Ohio shall elect three delegates; the counties of Harrison, Kanawha, Marion, Marshall, Monongalia, Preston and Wood shall each elect two: and the other counties named in the first section of this ordinance shall each elect one delegate to the said convention. And such other counties as are described in the third section of this ordinance, shall, for every seven thousand of their population according to the census of 1860, be entitled to one delegate, and to an additional delegate for any fraction over thirty-five hundred; but each of said counties shall be entitled to at least one delegate. The said delegates shall receive the same per diem as is now allowed to members of the general assembly; but no person shall receive pay as a member of the general assembly and of the convention at the same time.

8. It shall be the duty of the governor to lay before the general assembly, at its next meeting, for their consent according to the constitution of the United States, the result of the said vote, if it shall be found that a majority of the votes cast be in favor of a new state, and also in favor of the constitution proposed to said voters for their adoption.

9. The new state shall take upon itself a just proportion of the public debt of the commonwealth of Virginia prior to the first day of January, 1861, to be ascertained by charging to it all state expenditures within the limits thereof, and a just proportion of the ordinary expenses of the state government, since any part of said debt was contracted; and deducting therefrom the monies paid into the treasury of the commonwealth from the counties included within the said new state during the same period. All private rights and interests in lands within the proposed state, derived from the laws of Virginia prior to such separation, shall remain valid and secure under the laws of the proposed state, and shall be determined by the laws now existing in the state of Virginia.

The lands within the proposed state, of non-resident proprietors, shall not in any case be taxed higher than the lands of residents therein. No grants of lands or land warrants, issued by the proposed state, shall interfere with any warrant issued from the land office of Virginia prior to the 17th day of April last, which shall be located on lands within the proposed state now liable thereto.

10. When the general assembly shall give its consent to the formation of such new state, it shall forward to the congress of the United States such consent, together with an official copy of such constitution, with the request that the said new state may be admitted into the union of states.

11. The government of the state of Virginia as reorganized by this convention at its session in June last, shall retain, within the territory of the proposed state, undiminished and unimpaired, all the powers and authority with which it has been vested, until the proposed state shall be admitted into the union by the congress of the United States; and nothing in this ordinance contained, or which shall be done in pursuance thereof, shall impair or affect the authority of the said reorganized state government in any county which shall not be included within the proposed state.

A. I. Boreman, *President.*

G. L. Cranmer, *Secretary.*

An ORDINANCE to provide for the punishment of certain offenses, and for other purposes.

Passed August 12, 1861.

The People of Virginia, by their Delegates assembled in Convention at Wheeling, do ordain as follows:

1. Every former incumbent of an office which has been or shall be declared vacant by any declaration or ordinance of this convention, or any act of the general assembly, who shall exercise or attempt to exercise the functions of such office, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding one thousand dollars and imprisonment in the county jail not exceeding one year.

2. The office of any person who has heretofore taken and subscribed, or shall hereafter take and subscribe the oath or affirmation prescribed by the ordinance of this convention, entitled "An ordinance for the reorganization of the state government," and who, after taking and subscribing such oath or affirmation, shall by any overt act, or by writing or speaking, support and uphold or attempt to support and uphold the usurped government at Richmond or the pretended government of the so-called Confederate States, is hereby declared vacant; and the governor, if satisfactory evidence be produced thereof, upon due notice of the charge to the party to be affected thereby, shall proceed to fill such vacancy or cause the same to be filled in the mode prescribed by the fifth section of the above cited ordinance. But nothing herein contained shall prevent the indictment and punishment of such persons for the crime of perjury.

3. This ordinance shall be in force from its passage, and may be altered or repealed by the general assembly.

A. I. Boreman, *President.*

G. L. Cranmer, *Secretary.*

An ORDINANCE ascertaining and declaring in what cases offices are vacated under the Declaration of June 17, 1861.

Passed August 20, 1861.

The People of Virginia, by their Delegates assembled in Convention at Wheeling, do ordain as follows:

1. Every incumbent of an office held under authority of the commonwealth, or of any county, city or town thereof, who, on and before the seventeenth day of June last, was in rebellion against the government of the United States, or who by any overt act, or by writing or speaking, supported and upheld, or attempted to support and uphold the usurped government at Richmond, or the pretended government of the so-called Confederate States, and who has not, before the passage of this ordinance, taken and subscribed the oath of office prescribed by the ordinance of this convention, entitled "An ordinance for the reorganization of the state government," shall be deemed and taken to have vacated his office; and it shall be the duty of the governor, upon satisfactory evidence thereof, to proceed to fill such vacancy, or cause the same to be filled in the mode prescribed by the fifth section of the above cited ordinance.

2. This ordinance shall be in force from its passage.

A. I. Boreman, *President.*

G. L. Cranmer, *Secretary.*

An ORDINANCE providing for the appointment of Collector of the Public Revenue in certain cases.

Passed August 20, 1861.

The People of Virginia, by their Delegates assembled in Convention at Wheeling, do ordain as follows:

1. If in any county there shall be no sheriff or collector of the public revenues authorized to act under existing laws and the ordinances of this convention, and the county court of such county cannot be convened, or being convened shall fail or refuse to appoint and qualify a collector of the state and county levies and other public dues within the said county, it shall be the duty of the auditor of public accounts, with the approbation of the governor, to appoint a collector of the public revenues for the said county, requiring him to take such oaths and, with proper and sufficient sureties, to be approved by the governor and auditor, to execute such bonds as are required from collectors appointed by the county courts under the said laws and ordinances. The said bonds shall be filed with the auditor of public accounts, who shall transmit certified copies thereof to the clerk of the county court of such county, which copies shall be received as evidence in all the courts of the commonwealth.

2. This ordinance shall be in force from its passage, and may be altered or repealed by the general assembly.

A. I. Boreman, *President.*

G. L. Cranmer, *Secretary.*

An ORDINANCE to provide for the election of Representatives in the Congress of the United States.

Passed August 20, 1861.

The People of Virginia, by their Delegates assembled in Convention at Wheeling, do ordain as follows:

1. In every congressional district of the state where, from any cause, an election of a representative in the congress of the United States was not held on the fourth Thursday of May last, and in the eleventh district where a vacancy now exists, an election for such representative shall be held on the fourth Thursday in October next, which shall be conducted and the result ascertained, declared and certified in the manner directed in the second edition of the code of Virginia.

2. If in consequence of the occupation of any county by armed forces in hostility with or in rebellion against the government of the United States, such election cannot be or is not held in such county, any person entitled to vote therein may vote in any other county of his district. And if no election shall be held at the time appointed in the first section of this ordinance in any congressional district therein mentioned, the governor on receiving satisfactory evidence thereof may, by proclamation or writ, appoint another day for holding such election therein.

3. This ordinance shall be in force from its passage.

A. I. Boreman, *President.*

G. L. Cranmer, *Secretary.*

An ORDINANCE to increase the compensation of the Adjutant General, during the continuance of hostilities within the Commonwealth.

Passed August 20, 1861.

The People of Virginia, by their Delegates assembled in Convention at Wheeling, do ordain as follows:

1. During the continuance of hostilities within the commonwealth, the adjutant general, in addition to the salary now allowed by law, shall be entitled to receive the sum of seven hundred dollars per annum.

2. This ordinance shall be in force from its passage, and may be altered or repealed by the general assembly.

A. I. BOREMAN, *President.*

G. L. CRANMER, *Secretary.*